

Section 313.837 Report on Competitiveness

Introduction

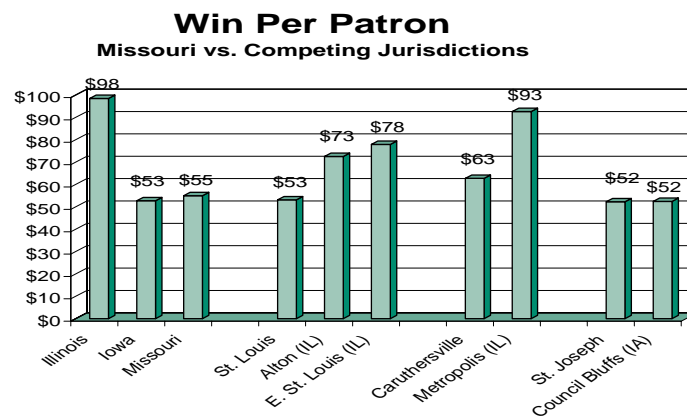
Since its inception, the Missouri law governing riverboat gambling has included a loss limit of \$500 per person for each “gambling excursion”, now a legal fiction used only for purposes of collecting the \$2 admission fee and administering the loss limit.¹ Missouri’s loss limit emulated an Iowa law that was repealed in 1995. Missouri is now the only jurisdiction in the world imposing a loss limit on its gambling customers.

Section 313.837, RSMo, requires the Commission to report annually to the General Assembly “the status of the competitiveness of Missouri excursion gambling boats when compared to the gaming tax rate of adjoining states and the effects of the loss limits imposed by subdivision (3) of Section 313.805, RSMo, on the competitiveness of the gaming industry in Missouri.”

Competitive Impact of the \$500 Loss Limit

For the past eight years, the Commission has fulfilled this statutory requirement by reporting that the data unequivocally shows the loss limit renders Missouri casinos less competitive than casinos in neighboring jurisdictions. Furthermore, the loss limit results in less gaming tax revenue for education, fewer tourists and less admission fee revenue for veterans, the National Guard, college student loans and early childhood development programs.

The reason the loss limit renders Missouri casinos less competitive is that customers do not like it. Those who use Missouri casinos find the loss limit a patronizing intrusion by government into a private business transaction. Perhaps more important to the issue of competitiveness are those who dislike the loss limit so much that they refuse to patronize Missouri casinos, choosing instead to visit casinos in neighboring jurisdictions² or to gamble illegally at truck stops³ and private clubs.⁴



¹ Section 313.800.1(8), RSMo., defines a “gambling excursion” as “the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise.” Riverboat gambling operators are required to submit an excursion schedule to the Gaming Commission, which is responsible for approving the schedule. Most excursions are two hours with the exception usually being the last excursion of the gaming day, which is typically three hours. Thus, as a practical matter, the loss limit is \$500 every two hours.

² Missouri residents comprise 77% of the St. Louis metropolitan area population base. Yet, Missouri casinos in the St. Louis metropolitan area capture only 67% of the gaming revenue market.

³ Despite the best efforts of the Gaming Commission, there is ample evidence of widespread use of illegal slot machines in Missouri. A cursory survey of Missouri truck stops will show many contain illegal slot machines operated in plain view. Because the Gaming Commission does not have jurisdiction over these machines, the best it can do when it receives a citizen’s complaint is refer the matter to the Attorney General’s office and local law enforcement. Since 2002, the Commission has written 77 such letters reporting illegal slot machines at truck stops.

⁴ Since 1995, the Commission has initiated discipline against 40 bingo licensees for housing illegal slot machines. On October 1, 2001, the Commission adopted a zero tolerance policy, notifying licensees that it would seek license revocation of any licensee housing illegal slot machines. This seems to have curbed the use of such devices.

In addition, since Missouri is the only jurisdiction in the world with a loss limit, tourists and business travelers find it particularly confusing. Out-of-state customers visiting Missouri casinos for the first time often have a look of bewilderment when learning of the loss limit. They typically go directly to the entrance of the casino where they are rerouted to a ticketing window. Once there, the customer is told to produce government-approved photo identification and complete paperwork attesting to their identity. Finally, the casino issues the customer a player's card that will make a permanent record of their casino visits and track their play. Understandably, many customers simply leave rather than completing the process.

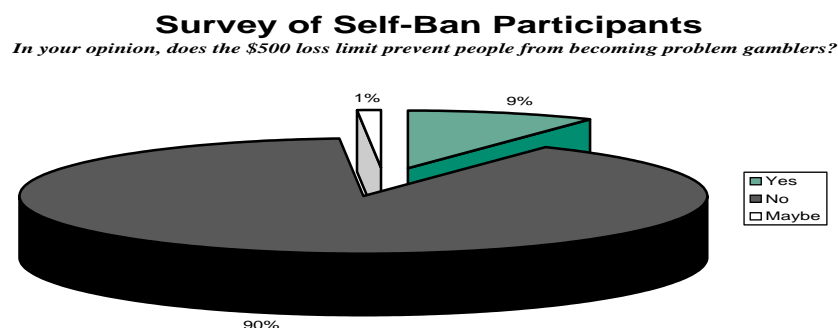
The propriety of the loss limit is a public policy issue for the General Assembly and the Governor. Many argue it was adopted to curb problem gambling. However, there has been no evidence that it is effective in this regard.⁵ Interestingly, while jurisdictions around the world have imitated many of Missouri's innovative programs to assist problem gamblers and prevent problem gambling behavior, none have adopted a loss limit.

Regardless of the decision to keep or repeal the loss limit, the Commission's obligation to report on competitiveness no longer serves a meaningful purpose. No one has been able to make a cogent argument that the loss limit does not render Missouri casinos less competitive. Since the answer to this question is clear, it is now time to repeal the reporting requirements in Section 313.805(3), RSMo. For the third consecutive year, the Commission respectfully requests you to do so.

Competitive Impact of Missouri's Gaming Tax Rate

The gaming tax rates imposed on riverboat gaming operations in Missouri have not changed since the first licenses were issued in May 1994. Missouri law imposes an 18% tax on the adjusted gross receipts (AGR) of riverboat gaming operators.⁶ In addition, a local tax of 2% on AGR is collected by the state and distributed to each home dock city or county.⁷

The statute also imposes an admission fee on the operators of excursion gambling boats in the amount of two dollars (\$2) per patron, per excursion, which is split between the home dock community and the state.⁸ Furthermore, pursuant to Section 313.824, RSMo, excursion gambling boat operators are charged for the cost



⁵ A preliminary survey of the people placing themselves in Missouri's voluntary exclusion program for problem gamblers indicates the ineffectiveness of the loss limit as a problem gambling deterrent. Over 90% of those surveyed indicate that the loss limit does not prevent people from becoming problem gamblers.



⁶ Adjusted gross receipts are defined by Section 313.800, RSMo, as "the gross receipts from licensed gambling games and devices less the winnings paid to wagerers." In other words, the amount the casino "wins" from patrons. It is often referred to as "casino win". The tax on AGR is set forth in Section 313.822, RSMo.

⁷ Section 313.822, RSMo.

⁸ Section 313.820, RSMo.

of gaming agents who are assigned to the riverboat with the responsibility of protecting the public. While the cost of Commission agents varies with each operation, the average annual cost is approximately \$568,000 per gaming facility.

Despite the massive tax increases recently enacted by Illinois, Missouri's gaming tax rate remains among the top tier in the United States. The Commission continues to believe that graduated gaming tax represents bad economic policy. Graduated tax rates based on gaming tax revenue penalize companies for placing more capital at risk. Furthermore, high graduated tax rates discourage reinvestment of profits in such things as new technology, the construction of non-gaming amenities and marketing dollars used to grow the business. Finally, such tax policy inevitably results in layoffs and fewer job offerings.⁹ In summary, this type of tax policy encourages poorly maintained, understaffed facilities that cater primarily to local customers.

Illinois Tax Increase Summary

Tax Bracket (AGR)	Previous Rate	2002 Increase
Less than \$25 million	15.0%	15.0%
\$25 - \$50 million	20.0%	22.5%
\$50 - \$75 million	25.0%	27.5%
\$75 - \$100 million	30.0%	32.5%
\$100 - \$150 million	35.0%	37.5%
\$150 - \$200 million	35.0%	45.0%
Greater than \$200 million	35.0%	50.0%

Tax Bracket (AGR)	2003 Increase
Less than \$25 million	15.0%
\$25 - \$37.5 million	27.5%
\$37.5 - \$50 million	32.5%
\$50 - \$75 million	37.5%
\$75 - \$100 million	45.0%
\$100 - \$250 million	50.0%
Greater than \$250 million	70.0%

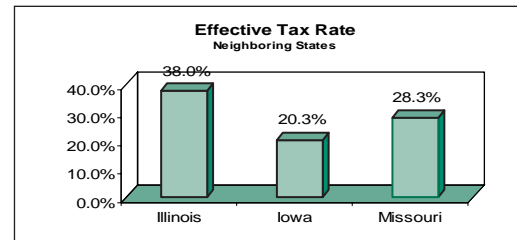
The effect of the Illinois tax increase is already apparent. While Missouri casinos continue to post steady growth in the face of the current recession, Illinois casinos are experiencing double-digit declines in gross gaming revenue. All of the significant construction and renovation projects in Illinois have been cancelled or indefinitely postponed.

While the Illinois tax increase has drastically decreased gaming revenues, Indiana's more moderate tax increase has not. In 2002, Indiana increased its effective tax rate by 4.8% by adopting a graduated tax rate and eliminating its boarding fee on customers staying over for more than one "excursion". Although the Commission argues against the graduated tax rate, the negative impact to gaming revenue was mitigated somewhat by Indiana coupling regulatory reforms with the tax increase. Before 2002, Indiana imposed restricted boarding and mandatory cruising. In conjunction with the 2002 tax increase, Indiana rescinded the boarding and cruising requirements, thus allowing casino operators to effectively absorb the tax increase.¹⁰

⁹ "Casinos blast Illinois tax increase", Chicago Sun Times, September 3, 2003, quoting Illinois Casino Gaming Association executive director Tom Swoik, "As a direct result of this tax policy, we have laid off nearly 700 employees and are not filling close to 600 additional vacancies. Additionally, we anticipate there may be further layoffs in the months to come."

¹⁰For the 12 months ended June 2003, Indiana casinos realized a \$233 million increase in gaming revenue, while taxes increased only about \$165 million.

While the Iowa tax rate is lower than Missouri's, it is comparable, and like Missouri, its tax structure has not changed since initial enactment. There is no evidence that the lower Iowa tax rate is having negative impact on the competitiveness of Missouri casinos. Certainly, over the long term, the fact that Indian casinos in Kansas pay no tax will have an impact on western Missouri gaming operators. You should also be aware of the potential for rapid expansion of Kansas Indian casinos.¹¹ Finally, Missouri casinos have been profitable in spite of the high tax rate largely because of the Commission's gradual approach to licensure. The Commission's practice of waiting to introduce new gaming capacity into a market until there is adequate demand allows Missouri licensees to remain profitable and encourages them to reinvest in Missouri.



¹¹ The Wyandotte Tribe of Oklahoma opened a casino in downtown Kansas City, Kansas on August 29, 2003. While there is currently litigation challenging the legality of the casino and the machines in play, the casino continues to operate in spite of having no agreement with state or local governments. See "KCK Casino Opens Amid Controversy", Kansas City Star August 29, 2003.

Summary

The Missouri tax rate remains among the highest in the gaming industry. However, its structure has some inherent advantages over Illinois and the lower tax rate in Iowa does not appear to be affecting the competitiveness of the Missouri operators. The data from Indiana offers evidence that the industry can absorb a modest tax increase without adverse economic consequences if it is accompanied by other policy changes allowing gaming operators to eliminate practices consumers find offensive, such as the loss limit.

